IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10345 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAGARTAT MEMBERS' ASSOCIATION
Versus
COLLECTOR OF STAMPS AND OTHERS

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Appearance :
MR BHARAT JANI for Petitioner.
MS NISHA PARIKH, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 30/07/2007

ORAL JUDGMENT

1. Rule. Learned AGP, Ms.Nisha Parikh waives service for the respondents.

2. The petitioner has invoked Article 226 of the Constitution for the purpose of challenging order dated 28-2-2003 of the Deputy Collector,

Stamp Duty Valuation Organization, whereby market value of the property in question and deficit of stamp duty were determined under the provisions of Section 32A of the Bombay Stamp Act, 1958 (for short "the Act"). It was submitted by learned counsel, Mr.B.G.Jani, appearing for the petitioner and conceded on behalf of the respondents that impugned order was not duly served upon the petitioner and, therefore, remedy available under the provisions of Section 32B of the Act could not be availed by the petitioner within the period of limitation prescribed under that provision. It was further submitted on behalf of the petitioner that the petitioner came to know about impugned order only after making an application for certified copy thereof. Therefore, it was jointly submitted that the petitioner was required to be allowed to avail of remedy under Section 32B of the Act. Accordingly, the petition is partly allowed with the direction that the petitioner shall be at liberty to make an application for reference under the provisions of Section 32B of the Act and if such an application, after making the requisite deposit and payment of fees, is made on or before 31st August 2007, the Collector concerned shall draw up a statement of the case and refer it to the Chief Controlling Revenue Authority, who shall decide the reference on merits in accordance with law, after affording to the petitioner an opportunity of being heard. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.Waghela, J.)

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